IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1) F.A.O. No.1366 of 2006
Date of decision : 16.10.2006

United India Insurance Co.Ltd.

....Appellant

Versus

Poonam Arora and others

...Respondents

2) F.A.O. No.1367 of 2006
Date of decision : 16.10.2006

United India Insurance Co.Ltd.

....Appellant

Versus

Sudama Yadav and others

...Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.Paul S.Saini, Advocate
for the appellant in both the appeals.

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MAHESH GROVER, J.(Oral)

The present order will dispose of two appeals bearing Nos.1366 and 1367 of 2006 arising out of the common award dated 23.11.2005 passed by the Motor Accident Claims Tribunal, Patiala in M.A.C.T.Case Nos.17T dated 18.10.2002/7.6.2004 and 18T dated 18.10.2002/7.6.2004.

In an accident which is alleged to have taken place on 18.6.2001 the Tribunal awarded a sum of Rs.75,000/- each to both the claimants separately.

The only ground on which the award of the Tribunal has been assailed by the learned counsel for the appellant is that the driving licence belonging to the driver of the offending vehicle was not a valid driving licence. It was contended by the learned counsel for the appellant that the driving licence was originally issued to the driver named Narender on 22.1.1995 and the same was renewed from 14.2.2003 to 13.2.2006. Since the original driving licence was issued in the year 1995, the learned counsel for the appellant wanted this Court to draw an inference that the subsequent renewal was bad as it has not been established as to whether there was a valid driving licence at the time of renewal in the year 2003 or not.

We have heard the learned counsel for the appellant and have perused the award. The onus to establish the breach of condition of policy on account of the driver not having a valid driving licence rests solely upon the insurance company. Since the company denies its liability on the ground of breach of policy, the onus has to be discharged with great circumspection so as to conclusively establish the breach which is alleged. It cannot leave gaping holes and expect the Court to draw inferences.

A perusal of the award shows that one Mukesh Kumar of Transport Department, Delhi had been examined as RW1 who established on record that the driving licence belonging to Narender son of Gugan Singh was valid from 14.2.2003 to 13.2.2006 upon

renewal. There is no evidence on record to suggest that prior to the renewal or at the time of renewal the licence previously held by the driver of the offending vehicle was invalid. The appellant has, therefore, miserably failed to establish any breach of policy on account of the invalidity of the driving licence held by the driver of the offending vehicle.

For the foregoing reasons, there is no merit in the appeal which is accordingly dismissed.

(MAHESH GROVER)
JUDGE

16.10.2006

(UMA NATH SINGH)
JUDGE

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